



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
FREEDOM OF INFORMATION ACT BRANCH  
Washington, D.C. 20570

Via email

October 4, 2021

Re: FOIA Request NLRB-2021-001367

Dear Joshua Bruegger (Littler-Mendelson):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on September 17, 2021, in which you seek all documents in *Gimme Coffee, Inc.*, Case Numbers 03-CA-271972, 03-RD-271639, 03-RD-270752, 03-RD-268340, 03-CA-232703, and 03-RC-198769. You assumed financial responsibility for the processing of your request in the amount of \$148.00.

We acknowledged your request on September 17, 2021. On September 21, 2021, in an email with a member of my staff, you agreed to narrow your request to the charge, complaint, answer, settlement agreement, and letter closing the case in Case Numbers 03-RD-270752, 03-RD-268340, 03-CA-232703, and 03-RC-198769.

Please note that portions of the attached records have solid black markings. These markings were in the original records and were not made by this office pursuant to the FOIA. Redactions made by the FOIA Branch appear as black marks with a white overlay text with the applicable FOIA exemptions noted.

Searches of the Agency's electronic casehandling system, NxGen, were conducted on September 23, 2021. These searches have yielded 587 pages of responsive, releasable records from the requested case files, which are attached.

For Case Numbers 03-CA-271972 and 03-RD-271639, I have determined that certain records responsive to your request are part of an investigative file in open cases before the Agency, and therefore, are exempt from disclosure pursuant to Exemption 7(A) of the FOIA. 5 U.S.C. § 552 (b)(7)(A). Exemption 7(A) allows an agency to withhold records included in an open investigatory file where disclosure could reasonably be expected to interfere with enforcement proceedings. See *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978). Therefore, given the open status of the requested cases, the investigatory records in the case files are being withheld in full at this time pursuant to Exemption 7(A).

Your request is granted to the extent that I have attached the formal records in the cases, which are available to the public pursuant to NLRB FOIA regulations. Upon my review, redactions have been made to portions of these records to protect the privacy interests of individuals named in the records. These redactions were made pursuant to FOIA Exemption 6, which pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy, and FOIA Exemption 7(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C).

For Case Numbers 03-RD-270752, 03-RD-268340, 03-CA-232703, and 03-RC-198769, I have determined that portions of the attached records are exempt from disclosure under Exemptions 6 and 7(C) of the FOIA (5 U.S.C. § 552(b)(6) and (b)(7)(C)). Specifically, redactions have been made to protect the privacy interests of individuals named in the records. These redactions were made pursuant to FOIA Exemption 6, which pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy, and FOIA Exemption 7(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C).

Please note that Exemption 7(A) protection is “temporal in nature.” *Citizens for Responsibility & Ethics in Wash. v. Dep’t of Justice*, 746 F.3d 1082, 1097 (D.C. Cir 2014) (citing *NLRB v. Robbins Tire*, 437 U.S. 214, 223-24 230-32 (1978)). As such, case file records may become disclosable, subject to applicable exemptions, after the case closes, that is, once a Board decision and/or court order issues, there has been full compliance with a settlement, or the case has otherwise been closed under Agency procedures. Accordingly, you may wish to file a new request at that time.

The status of the currently-open cases can be tracked on the Agency website at [www.nlr.gov](http://www.nlr.gov) by going to the Cases & Decisions tab, clicking case search, entering the case number in the search box and viewing the case page or by clicking the link here: <https://www.nlr.gov/search/case/03-CA-271972> and <https://www.nlr.gov/search/case/03-RD-271639>.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests “from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v).

Consistent with this fee category, you “will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.” 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Four hours of professional time was expended in searching for and reviewing for release the requested material. Accordingly, please remit \$148.00.

Payment Instructions: Due to the COVID-19 pandemic and resulting widespread employee telework at the Agency’s Headquarters offices, we are no longer accepting checks or money orders as payment at this time. To submit payment for your FOIA request, please use [www.pay.gov](http://www.pay.gov). From the [www.pay.gov](http://www.pay.gov) home page, scroll down to the bottom left corner to select “Pay a FOIA Request.” Click “See all options” and go to “Filter By Agency” to check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact Stephanie Ostrowski, the Attorney-Advisor who processed your request, at (202) 501-8648 or by email at [stephanie.ostrowski@nrlb.gov](mailto:stephanie.ostrowski@nrlb.gov), as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the Attorney-Advisor, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the Agency’s FOIA Public Liaison is:

FOIA Public Liaison  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: [FOIAPublicLiaison@nrlb.gov](mailto:FOIAPublicLiaison@nrlb.gov)  
Telephone: (202) 273-0902  
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

October 4, 2021

Page 4

Email: [ogis@nara.gov](mailto:ogis@nara.gov)

Telephone: (202) 741-5770

Toll free: (877) 684-6448

Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt  
Chief FOIA Officer  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: [DLCFOIAAppeal@nrlrb.gov](mailto:DLCFOIAAppeal@nrlrb.gov)

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

*/s/ Synta E. Keeling*

Synta E. Keeling  
FOIA Officer

Attachment: (587 pages)